

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

**DONNA CHRASTECKY AND  
MICHAEL CHRASTECKY,**  
*Plaintiffs*

**v.**

**C. R. BARD, INC.,**  
*Defendant*

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**Case No. A-19-CV-1240-LY-SH**

**ORDER**

Before the Court is Plaintiffs’ Motion for Protection, filed on March 9, 2021 (Dkt. 131). On January 22, 2020, the District Court referred this case to the undersigned Magistrate Judge, pursuant to 28 U.S.C. § 636(b)(1), Federal Rule of Civil Procedure 72, and Rule 1 of Appendix C of the Local Rules of the United States District Court for the Western District of Texas. This case is set for jury selection and trial before the District Court in May 2021.

Defendant deposed Plaintiffs in April 2017. Dkt. 15; Dkt. 16. On February 26, 2021, Defendant noticed a second deposition of both Plaintiffs for March 12, 2021. Dkt. 131-2; Dkt. 131-3. Plaintiffs ask the Court to enter a protective order, arguing that deposing them again at this late stage of the litigation would be unnecessary, harassing, unduly burdensome, and duplicative.

Federal Rule of Civil Procedure 30(a)(2)(A)(ii) provides that “[a] party must obtain leave of court . . . if the parties have not stipulated to the deposition and . . . the deponent has already been deposed in the case.” FED. R. CIV. P. 30(a)(2)(A)(ii); *see also Gates v. Texas Dep’t of Fam. & Protective Servs.*, No. A-09-CV-018 LY, 2010 WL 11598033, at \*3 (W.D. Tex. Oct. 7, 2010) (“Federal Rule of Civil Procedure 30(a)(2)(A)(ii) requires leave of court to depose a person who has already been deposed in the case.”). Plaintiffs have not stipulated to the depositions, and Defendant has not sought leave of court to re-depose them, as required by Rule 30. *See United*

*States ex rel. Woodard v. Davita, Inc.*, No. 1:05-CV-227, 2011 WL 13199233, at \*2 (E.D. Tex. Sept. 26, 2011) (noting that party “should request leave *before* noticing any such deposition”).

Accordingly, Plaintiffs’ Motion for Protection (Dkt. 131) is **GRANTED**. The Court **HEREBY QUASHES** the Defendant’s second deposition notices of Plaintiffs (Dkt. 131-2; Dkt. 131-3).

**SIGNED** on March 10, 2021.



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SUSAN HIGHTOWER  
UNITED STATES MAGISTRATE JUDGE